

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

LARRY GIRALDES, JR.,

NO. CIV. S-01-2110 LKK/EFB

Plaintiff,

v.

O R D E R

T. PREBULA, et al.,

Defendants.

On August 18, 2011, plaintiff, a prisoner proceeding with appointed counsel, filed a declaration stating that he has never been contacted by his appointed counsel and that he has been attempting to reach her for months. (Doc. No. 176). The following day, the court ordered counsel for plaintiff to respond within a week. (Doc. No. 177). Counsel submitted several documents under seal responding to plaintiff's contentions. (Doc. Nos. 181-83). On August 25, 2011, plaintiff submitted an "urgent request" that the court recognize that defendants are altering documents in his central file. (Doc. No. 180). As an example, plaintiff has provided

1 two versions of a document apparently from his central file in  
2 which one has a hand written notation absent in the other version.  
3 (Id.) Plaintiff claims that the document without the note was  
4 submitted in support of defendant's summary judgment motion and the  
5 document with the note was copied from his central file. He also  
6 indicated that his mother has informed him that his counsel is  
7 resigning from this case. (Id.) A trial confirmation hearing in  
8 this case is currently set for September 12, 2011.

9 In light of the following, the court ORDERS as follows:

10 (1) Ellen C. Dove, appointed counsel for plaintiff, is  
11 relieved of the appointment. She no longer represents  
12 plaintiff.

13 (2) Counsel is ORDERED to release all client papers and  
14 property to clients within fourteen (14) days of the  
15 date of this order, including correspondences,  
16 pleadings, deposition transcripts, exhibits, physical  
17 evidence, expert reports, and other items reasonably  
18 necessary to the clients' representation, whether the  
19 clients have paid for them or not, in accordance with  
20 Rule 3-700(D) of the California Rules of Professional  
21 Conduct.


22 (3) The trial confirmation hearing in the above captioned  
23 case is continued to December 19, 2011 at 1:30 p.m. so  
24 that the court can attempt to find volunteer counsel for  
25 plaintiff.

26 (4) The court declines to issue an order on plaintiff's

1 urgent request that the court recognize that defendants  
2 are altering documents in his central file. After the  
3 court determines whether it can find a new volunteer  
4 lawyer to represent plaintiff, plaintiff, either with or  
5 without counsel, will have an opportunity to object to  
6 defendants' exhibits and, to the extent relevant at  
7 trial, cross-examine defendants in light of the alleged  
8 alterations to any documents.

9 IT IS SO ORDERED.

10 DATED: August 31, 2011.

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14 LAWRENCE K. KARLTON  
15 SENIOR JUDGE  
16 UNITED STATES DISTRICT COURT  
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